



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

TEXAS HEALTH  
PO BOX 600324  
DALLAS TX 75360-0324

#### **Respondent Name**

DALLAS ISD

#### **Carrier's Austin Representative Box**

Box Number 19

#### **MFDR Tracking Number**

M5-06-0447-02

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary dated October 24, 2005:** "CPT code 90806 was pre-authorized and was provided as a separate procedure for the date of service listed." "CPT code 90880 does not require pre-authorization per TWCC Rule 134.600." "CPT code 90901 was preauthorized." "CPT code 97799 was preauthorized."

**Requestor's Position Summary dated August 23, 2010:** "...please withdraw CPT codes 97003 & 90889 for DOS 01/31/05 & 04/08/05 but review the remaining DOS in dispute."

**Amount in Dispute:** \$26,997.85

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "According to the October 1, 2009 Decision and Order the compensable injury of July 13, 2000 does not extend to depression and adjustment disorder with anxiety." "Therefore, no allowance is recommended for any of the disputed dates of service for procedure codes 90801 (psychiatric diagnostic interview examination), 96100 (psychological testing), 90806 (individual psychotherapy), 90880 (hypnotherapy), and 90889 (preparation of report of patient's psychiatric status). Enclosed are medical records indicating the psychological diagnosis was 296.34 for major depressive disorder and 309.24 for adjustment disorder with anxiety." "No allowance is recommended for the chronic pain program billed with procedure code 97799CPA as treatment was rendered for depression and anxiety."

**Response Submitted by:** Argus, 9101 LBJ Freeway, Suite 600, Dallas, TX 75243-2055

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 28, 2004	CPT code 90801 (x5)	\$967.00	\$0.00
November 19, 2004	CPT code 96100 (x5)	\$481.75	\$0.00

December 17, 2004	CPT code 90806	\$124.80	\$0.00
January 4, 2005 January 14, 2005 January 18, 2005	CPT code 90806	\$125.00/day	\$0.00
March 18, 2005 March 25, 2005 April 1, 2005 April 8, 2005 July 21, 2005 July 29, 2005	CPT code 90806	\$126.75/day	\$0.00
December 17, 2004	CPT code 90880	\$157.71	\$0.00
January 4, 2005 January 14, 2005 January 18, 2005 March 18, 2005 March 25, 2005 April 1, 2005 April 8, 2005 July 21, 2005 July 29, 2005	CPT code 90880	\$160.16/day	\$0.00
December 17, 2004 January 4, 2005 January 14, 2005 January 18, 2005	CPT code 90889 (30)	\$90.00/day	\$0.00
March 18, 2005 March 25, 2005 April 1, 2005 July 21, 2005 July 29, 2005	CPT code 90889 (60)	\$180.00/day	\$0.00
March 18, 2005	CPT code 90901 (16)	\$853.60	\$0.00
March 25, 2005 April 1, 2005 April 8, 2005 July 21, 2005	CPT code 90901 (12)	\$640.20/day	\$0.00
April 21, 2005 April 22, 2005 April 25, 2005 April 27, 2005 April 28, 2005 April 29, 2005 May 2, 2005 May 3, 2005 May 4, 2005 May 5, 2005 May 16, 2005 May 19, 2005 May 20, 2005 May 25, 2005 May 26, 2005 May 27, 2005 May 31, 2005 June 1, 2005 June 2, 2005	CPT code 97799-CP-CA (x8 hours)	\$1000.00/day	\$14,875.00
July 21, 2005	CPT code 97799 (no bill)	\$180.00	\$0.00
TOTAL		\$26,997.85	\$14,875.00

## ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. Division rule at 28 TAC §134.203 titled *Medical Fee Guideline for Professional Services*, effective March 1, 2008, sets the reimbursement guidelines for the disputed services.
3. 28 Texas Administrative Code §134.204, *Medical Fee Guideline for Workers' Compensation Specific Services*, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
4. 28 Texas Administrative Code §134.600, requires preauthorized for specific treatments and services.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated December 16, 2004

- R4-TWCC Code: R-Extent of Injury.
- The supplies/services are not (or appear not to be) related to the workers' compensation injury of this Claimant.

Explanation of benefits dated January 12, 2005, January 19, 2005, January 25, 2005, February 3, 2005, and February 4, 2005

- E1-WCC CODE: E-Entitlement to Benefits
- Entitlement. Reimbursement for this service(s) is being denied based on Notice of Disputed Claim or Controversion by Carrier.

Explanation of benefits dated April 6, 2005, April 14, 2005, April 18, 2005, April 22, 2005, May 13, 2005, June 7, 2005, June 8, 2005, June 24, 2005, June 29, 2005, June 30, 2005, and August 16, 2005

- W11A-Entitlement to benefits.
- Reimbursement for this service(s) is being denied based on Notice of Disputed Claim or Controversion by Carrier.
- 97A, 97H-Payment is included in the allowance for another service/procedure.
- Per the National Correct Coding Initiative Edits, you can not unbundle codes when there is a code that is adequate for both procedure or included in the procedure.
- Service(s)/Procedure is included in the value of another service/procedure billed on the same date.

Explanation of benefits dated April 1, 2005

- W4-No additional reimbursement allowed after review of appeal/reconsideration.

Explanation of benefits dated June 3, 2005

- W11A-Entitlement to benefits.
- Reimbursement for this service(s) is being denied based on Notice of Disputed Claim or Controversion by Carrier.
- W4-No additional reimbursement allowed after review of appeal/reconsideration.

Explanation of benefits dated June 16, 2005, June 27, 2005, August 9, 2005, August 11, 2005, and September 30, 2005

- W4N-No additional reimbursement allowed after review of appeal/reconsideration.
- Claim is disputed.

Explanation of benefits dated July 29, 2005

- W4P-No additional reimbursement allowed after review of appeal/reconsideration.
- Denied per Peer Review.

Explanation of benefits dated September 12, 2005

- W4G-No additional reimbursement allowed after review of appeal/reconsideration.
- Medical records were not submitted with reconsideration request.

### **Issues**

1. Does a compensability issue exist in this dispute?
2. Is the requestor entitled to reimbursement for CPT code 97799-CP-CA?
3. Is the requestor entitled to reimbursement for CPT code 97799?

## **Findings**

1. A Benefit Review Conference was held on January 8, 2002 that found that the compensable injury of July 13, 2000 did not extend to and include injuries to the claimant's cervical spine or lumbar spine. This decision was appealed by claimant and requestor.

The Division scheduled a Contested Case Hearing on May 21, 2009, to which the Claimant did not attend. The Contested Case Hearing was reset and held on October 1, 2009 that found that the compensable injury of July 13, 2000 did not extend to depression and adjustment disorder with anxiety. This decision and order had not been appealed; therefore, the decision is final.

The respondent submitted Individual Psychotherapy Notes that indicate that the treatment was for the primary diagnosis: "296.34-Major Depressive disorder, severe, without psychotic features"; and "309.24-Adjustment disorder with anxiety". These diagnosis were found to be non-compensable at the October 1, 2009 Contested Case Hearing.

28 Texas Administrative Code §133.307(a) indicates that "In resolving disputes over the amount of payment due for health care determined to be medically necessary and appropriate for treatment of a compensable injury, the role of the commission is to adjudicate the payment, given the relevant statutory provisions and commission rules." Because the psychotherapy treatment was for treatment that was found to be non-compensable, the Division lacks jurisdiction to review these services; therefore, this decision will not consider these services any further.

2. A review of the submitted medical bills indicates that the disputed chronic pain management program was for ICD-9 codes "718.01-Articular cartilage disorder of the shoulder region"; and "718.92 unspecified derangement of the upper arm joint".

The July 13, 2000 compensable injury was to the claimant's left shoulder and upper extremity; therefore, according to the submitted billing the disputed treatment was for the compensable injury.

On April 21, 2005, April 22, 2005, April 25, 2005, April 27, 2005, April 28, 2005, April 29, 2005, May 2, 2005, May 3, 2005, May 4, 2005, May 5, 2005, May 16, 2005, May 19, 2005, May 20, 2005, May 25, 2005, May 26, 2005, May 27, 2005, May 31, 2005, June 1, 2005, and June 2, 2005 the requestor billed for eight (8) hours of CPT code 97799-CP-CA for a chronic pain management program.

28 Texas Administrative Code §133.307(g)(3)(B), requires the requestor to send additional documentation relevant to the fee dispute including "a copy of any pertinent medical records." On April 26, 2012, the Division contacted the requestor's representative, Judith Guerra, and requested copies of medical records relevant to the dispute. The requestor submitted the following documentation to support billed service:

DATE	REPORT	TIME	NUMBER OF HOURS - PER 28 TEXAS ADMINISTRATIVE CODE §134.204(H)(5)(B)	TOTAL
April 21, 2005	Hypnotherapy Group Note Massage Therapy Note Psychotherapy Session Working Lunch Group Note Therapeutic Group Note Activity Flow Sheet	9-10 10-10:30 11-12 12-1 3-4 130 minutes	1 :50 1 1 1 2:25	6:75
April 22, 2005	Chronic Pain Management Note Educational Group Note Therapeutic Group Note Activity Flow Sheet	11-12 12-1 3-4 150 minutes	1 1 1 2:50	5:50
April 25, 2005	Individual Psychotherapy Session Educational Group Therapy Note Goals Group Note Biofeedback Therapy Note Activity Flow Sheet	11-12 12-1 2-3 3-4 100 minutes	1 1 1 1 1:75	5:75

April 27, 2005	Working Lunch Group Note Group Psychotherapy Note Activity Flow Sheet	12-1 2-3 105 minutes	1 1 1:75	3:75
April 28, 2005	Hypnotherapy Group Note Individual Psychotherapy Session Educational Group Note Psychotherapeutic Group Note Activity Flow Sheet	9-10 11-12 12-1 3-4 165 minutes	1 1 1 1 2:75	6:75
April 29, 2005	Chronic Pain Management Chronic Pain Management Therapeutic Group Note Activity Flow Sheet Weight Machines	11-12 12-1 3-4 240 minutes 20 minutes	1 1 1 4 :25	7:25
May 2, 2005	Educational Group Note Biofeedback Therapy Note Therapeutic Group Note Activity Flow Sheet	12-1 1-2 2-3 195 minutes	1 1 1 3:25	6:25
May 3, 2005	Individual Psychotherapy Session Pain Management Group Note CPM Group Therapy Note Educational Group Note Psychotherapeutic Group Note Activity Flow Sheet	9-10 10-11 11-12 12-1 2-3 195 minutes	1 1 1 1 1 3:25	8 (Even though documents 8:25, only 8 will be considered because only 8 were billed)
May 4, 2005	Educational Group Therapy Note Therapeutic Group Note Activity Flow Sheet	12-1 2-3 155 minutes	1 1 2:50	4:50
May 5, 2005	Hypnotherapy Group Note Massage Therapy Note Educational Group Note Individual Psychotherapy Session Psychotherapy Group Note Activity Flow Sheet Weight Machines	9-10-30 11-11:30 12-1 1-2 3-4 115 minutes 20 minutes	1:50 :50 1 1 1 2 :25	7:25
May 16, 2005	Individual Psychotherapy Note Massage Therapy Note Educational Group Note Activity Flow Sheet	10-11 11-12 12-1 180 minutes	1 1 1 3	6
May 19, 2005	Hypnotherapy Group Note Massage Therapy Note Educational Group Note Individual Psychotherapy Note Nutrition Activity Flow Sheet	9-10 11:00-11:30 12-1 1-2 2-3 60 minutes	1 :50 1 1 1 1	5:50
May 20, 2005	Biofeedback Therapy Note Pain Management Group Note Educational Group Note Biofeedback Therapy Note Activity Flow Sheet	10-11 11-12 12-1 3-4 50 minutes	1 1 1 1 :75	4:75

May 25, 2005	Individual Psychotherapy Note Educational Group Note Massage Therapy Note Pain Management Group Note Activity Flow Sheet Weight Machines	11-12 12-1 1:30-2 2-3 180 minutes 60 minutes	1 1 :50 1 3 1	7:5
May 26, 2005	Hypnotherapy Group Note Psychotherapy Group Note Biofeedback Therapy Note Weight Machines Activity Flow Sheet	9-10 12-1 3-4 60 minutes 180 minutes	1 1 1 1 3	7
May 27, 2005	Psychotherapy Group Note Psychotherapy Group Note Weight Machines Activity Flow Sheet	12-1 3-4 60 minutes 150 minutes	1 1 1 2:50	5:5
May 31, 2005	Pain Management Group Note Hypnotherapy Group Note Group Note Psychotherapy Group Note Psychotherapy Group Note Weight Machines Activity Flow Sheet	10-11 11-12 12-1 2-3 3-4 60 minutes 170 minutes	1 1 1 1 1 1 3	8 (Even though documents 9, only 8 will be considered because only 8 were billed)
June 1, 2005	Biofeedback Therapy Note Group Note Massage Therapy Note Weight Machines Activity Flow Sheet	11-12 12-1 2:30-3 60 minutes 170 minutes	1 1 :50 1 2:75	6:25
June 2, 2005	Hypnotherapy Group Note Psychoeducational Group Note Psychotherapy Group Note Weight Machines Activity Flow Sheet	9:30-10:30 12-1 2-3 60 minutes 170 minutes	1 1 1 1 2:75	6:75
TOTAL				119 hours

28 Texas Administrative Code §134.204(h)(1)(A) states "(A) If the program is CARF accredited, modifier "CA" shall follow the appropriate program modifier as designated for the specific programs listed below. The hourly reimbursement for a CARF accredited program shall be 100 percent of the MAR."

28 Texas Administrative Code §134.204(h)(5)(A) and (B) states "The following shall be applied for billing and reimbursement of Chronic Pain Management/Interdisciplinary Pain Rehabilitation Programs

(A) Program shall be billed and reimbursed using CPT Code 97799 with modifier "CP" for each hour. The number of hours shall be indicated in the units column on the bill. CARF accredited Programs shall add "CA" as a second modifier.

(B) Reimbursement shall be \$125 per hour. Units of less than one hour shall be prorated in 15 minute increments. A single 15 minute increment may be billed and reimbursed if greater than or equal to eight minutes and less than 23 minutes."

The Division finds that the requestor billed CPT code 97799-CP-CA for 119 hours. Therefore, per 28 Texas Administrative Code §134.204(h)(1)(A) and (5)(A) and (B), the MAR for a CARF accredited program is \$125.00 per hour x 119 hours = \$14,875.00. The carrier paid \$0.00. Therefore, the difference between the MAR and amount paid is \$14,875.00. This amount is recommended for reimbursement.

3. On July 21, 2005, the requestor billed CPT code 97799 – “Unlisted physical medicine/rehabilitation service or procedure”.

28 Texas Administrative Code §133.307(e)(2)(A), requires that the request shall include “a copy of all medical bill(s) as originally submitted to the carrier ...” Review of the documentation submitted by the requestor finds that the request does not include any copies of medical bill(s) for CPT code 97799 dated July 21, 2005. The Division finds that the requestor did not submit documentation to support billed service. The Division further finds that the requestor has not met the requirements of §133.307(e)(2)(A). As a result, reimbursement cannot be recommended.

### **Conclusion**

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation supports reimbursement sought by the requestor. The Division concludes that the requestor supported its position that additional reimbursement is due. As a result, the amount ordered is \$14,875.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$14,875.00 plus applicable accrued interest per 28 Texas Administrative Code §134.803, due within 30 days of receipt of this Order.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

5/10/2012  
\_\_\_\_\_  
Date

### ***YOUR RIGHT TO REQUEST AN APPEAL***

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**